

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

[Plaintiff(s) Name],)	
)	
Plaintiff(s),)	
)	
v.)	CAUSE NO. _____ CAN
)	
[Defendant(s)],)	
)	
Defefdant(s).)	

PRELIMINARY INSTRUCTIONS

PRELIMINARY INSTRUCTION NUMBER C1

Before we begin the trial, I would like to tell you about what will be happening. I want to describe how the trial will be conducted and explain what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to go about reaching your decision. But for now, I simply want to explain our jobs and how the trial will proceed.

The first step in the trial will be the opening statements. In their opening statements, the plaintiffs' attorney and the defendant's attorney will tell you about the evidence they intend to put before you, so that you will have an idea of what their cases are going to be. The opening statements are not evidence. Their purpose is only to help you understand what the evidence will be and what the parties are trying to prove.

PRELIMINARY INSTRUCTION NUMBER C2

After the opening statements, we will proceed with the presentation of evidence, which will consist of the testimony of witnesses, documents and other things received into the record as exhibits, and any facts that I may instruct you to find or the lawyers may agree or stipulate to.

The plaintiffs will offer evidence through documents and witnesses, who **(Attorney(s) name)** may cross-examine on behalf of the defendant. This is called the plaintiffs' "case-in-chief." When the plaintiffs finish, or "rest" their case-in-chief, the defendant may present further evidence through documents and witnesses who **(Attorney(s) name)** may cross-examine on the plaintiffs' behalf. After that, subject to certain limitations, the plaintiffs may be permitted to call additional witnesses or present further evidence in what is called the "rebuttal" stage of the trial.

PRELIMINARY INSTRUCTION NUMBER C3

This court does not permit jurors to ask questions of the witnesses or of the attorneys. Therefore, please do not interrupt the lawyers during their examination of the witnesses or otherwise. If, however, you are unable to hear a witness or lawyer, please raise your hand and the court will see that the situation is corrected.

PRELIMINARY INSTRUCTION NUMBER C4

You should pay close attention to the testimony because it will be necessary for you to rely upon your memories concerning what the testimony was. Although, as you can see, the court reporter is making stenographic notes recording everything that is said, typewritten transcripts will not be prepared in time for you to use during your deliberations and you should not expect to receive them.

On the other hand, any exhibits admitted into evidence during the trial will be available to you for detailed study, if you wish, during your deliberations. So, if an exhibit is received in evidence but is not fully read or shown to you at the time, don't be concerned because you will get to see and study it later during your deliberations.

If you would like to take notes during the trial, you may do so. On the other hand, you are not required to take notes if you do not want to. That will be left up to you individually to decide.

If you decide to take notes, don't let note-taking distract you from the proceedings. Notes are only to aid your memory, so if you find that your memory is different from your notes, rely on your memory, not your notes. If you take notes, you can't take them home with you during the trial; you must leave them in the jury room at the end of the day. You can take your notes with you when the trial is over, and any notes left behind will be destroyed so no one will see them.

You each have the responsibility to listen carefully to the evidence, and you can't turn that responsibility over to another juror. So don't rely too heavily on someone else's notes. Rely on your own memory of the testimony.

PRELIMINARY INSTRUCTION NUMBER C5

From time to time during the trial, I may be called upon to make rulings of law on the objections or motions made by the lawyers. Do not draw any conclusion from such objections or from my rulings on the objections. Don't infer from my rulings or comments that I have any opinions on the merits of the case favoring one side or the other. My rulings and comments will relate only to the legal questions I must determine and should not influence your thinking. If I sustain an objection to a question, the witness may not answer it. Do not try to guess what the answer might have been if I had allowed the question to be answered. Similarly, if I tell you not to consider a particular statement, you should put that statement out of your mind, and you may not refer to that statement in your later deliberations.

PRELIMINARY INSTRUCTION NUMBER C6

During the course of the trial, I may have to confer with the lawyers out of your hearing about the rules of law which should apply here. Sometimes, we will talk here, at the bench. But some of these conferences may take time, so, as a convenience to you, I will excuse you from the courtroom. I will try to avoid or limit these interruptions as much as possible, but please be patient even if the trial seems to be moving slowly, because these conferences often save time for all of us.

PRELIMINARY INSTRUCTION NUMBER C7

When I say that the plaintiff has the burden of proving his claim by a “preponderance of the evidence”, it means that he must be able to point to evidence which, considered in light of all the facts, leads you to believe that what he claims is more probably true than not true. In other words, if the evidence favoring the plaintiff was placed on one side of a scale and the evidence favoring the defendant(s) placed on the other, the plaintiff would have to make the scales tip somewhat in his direction. If he fails to meet this burden, your verdict will have to be for the defendant(s).

PRELIMINARY INSTRUCTION NUMBER C8

The preponderance of the evidence does not depend on the number of the witnesses testifying on the one side of an issue as compared with the number testifying on the other. It does depend on the weight of the evidence and means the evidence of the greater weight and credibility.

Those of you who have followed criminal cases have probably heard of “proof beyond a reasonable doubt”. That requirement does not apply to civil cases and you should, therefore, put it out of your mind.

PRELIMINARY INSTRUCTION NUMBER C9

You are the exclusive judges of the weight of the evidence and the credibility of the witnesses. It is your duty to consider all of the evidence and determine what facts have been proven and not proven. If you meet with conflicts in the evidence, you should, if you can reasonably and fairly do so, so reconcile them as to believe all the testimony of all the witnesses. If you cannot so reconcile the evidence, you then have the right to believe that which you think most worthy of credit and disregard that which cannot be reasonably and fairly reconciled therewith.

PRELIMINARY INSTRUCTION NUMBER C10

When the evidence portion of the trial is completed, the attorneys will be given another opportunity to address you and make their final arguments in the case. Just as opening statements are not evidence, the final arguments are not evidence either. In their closing arguments, the lawyers will be attempting to summarize their cases and help you understand the evidence that was presented.

Keep an open mind. Don't reach any hasty impressions or conclusions. Reserve your judgment until you have heard all of the evidence, the final arguments, and my instructions to you. Don't discuss the case until you begin your deliberations. Don't discuss the case at all among yourselves or with anyone else, and don't let anyone to discuss it in your presence – not your family, not your friends, not the people you work with. Don't talk with any witness, or with the parties, or with any of the lawyers in the case about any subject at all. Don't read any newspaper articles that might be published about the case and don't watch or listen to any television or radio reports about the trial.

During the course of the trial, you will receive all the evidence you properly may consider to decide the case. Because of this, you should not attempt to gather any information on your own which you think might be helpful. Do not engage in any outside reading on this case, do not try to visit any places mentioned in the case, and do not in any other way try to learn about the case outside the courtroom.

PRELIMINARY INSTRUCTION NUMBER C11

The final part of the trial occurs when I instruct you about the rules of law which you are to use in reaching your verdict. After hearing my instructions, you will leave the courtroom together to make your decision. Your deliberations will be secret. You never have to explain your verdict to anyone.

Your duty will be to find, from the evidence presented to you, what the facts are. You and you alone are the judges of the facts. To those facts, you will then have to apply the law as I will give it to you in the instructions at the end of the case. You must follow that law, whether you agree with it or not.

PRELIMINARY INSTRUCTION NUMBER C12

These preliminary instructions have been read to you prior to the opening statements of counsel and prior to the introduction of the evidence in order that you may understand the issues presented for your decision in this action, the rules regarding the burden of proof and the credibility of witnesses, and the manner of weighing the testimony which you will hear in this case.

You will receive further instructions after **(Attorney(s) names)** and **(Attorney(s) names)** have presented their closing arguments.

PRELIMINARY INSTRUCTION NUMBER C13

(for use prior to recess)

It is important that you obey the instructions the court has already given you pertaining to recesses of the court. So I will repeat them as a reminder as we recess for the day.

First: Do not discuss the case either among yourselves or with anyone else during the course of the trial.

Second: Do not permit any person to discuss the case in your presence, and if anyone does so despite your telling him, or her not to, report that fact to the court as soon as you are able.

Third: Though it is a normal human tendency to converse with people with whom one is thrown in contact, please do not, during the time you serve on this jury, converse whether in or out of the courtroom, with any of the parties or their attorneys or any witness. By this I mean not only do not converse about the case, but do not converse with these individuals at all, even to pass the time of day.

Fourth: If articles are written about this case, do not read about the case in the newspapers, or listen to radio or televisions broadcasts about the trial. If a newspaper headline catches your eye, do not examine the article further.

Fifth: Do not do any research or make any investigation about the case on your own.

Sixth: Do not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. Keep an open mind until then.